(24)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 502 OF 2005

Appellant (Non-Applicant No.3)		United India Insurance Company Limited, Through its Branch Manager, Branch Office at near Ram Mandir, Ambikapur, District Surguja (Chhattisgarh)
		Versus
Respondents (Applicant)	1.	Bacchu Ram, son of Shri Mahto Ram, aged about 55 years, resident of Dewadand, P.S. Khadgawan Tahsil Manendragarh, Distt. Korea (Chhattisgarh)
(Non-Applicant No.1)	2.	Ajay Kumar Singh, son of Shri Dashrath Singh, resident - C/o Ambika Transport, Ambikapur, Distt. Surguja (Chhattisgarh)
(Non-applicant No.2)	3.	Ajay Kumar Agrawal, son of not known, resident of Bansant Lal Marg, Ambikapur, P.S. Ambikapur, Distt. Surguja (Chhattisgarh)

Present:
Mr.Dashrath Gupta, learned counsel for the appellant.

ORAL ORDER
(Passed on 13th of December 2005)

The following order of the court was passed by

S.R. Nayak, CJ.

Although, at the time of hearing, learned counsel for the appellant submitted that an application was made before the MACT under Section 170 (b) of the Motor Vehicles Act, 1988, (for short "the Act") the MACT did not pass any order on that application. We are of the considered opinion that this appeal is not maintainable. If the appellant/insurance Company had made an application under Section 170(b) of the Act, it should have pressed that application for an order before the MACT. In the

circumstance, it looks to our mind that the appellant /Insurance company though filed such application, ultimately abandoned that application. Therefore, it is not permissible for the appellant/Insurance Company to assail the validity of the impugned award on merit. On that short ground, we dismiss the appeal. There shall be no order as to costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge